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IN THE SUPREME COURT OF THE UNITED STATES

Florida J.A.I.L. 4 Judges,

Petitioner,

vs.

The Florida Bar,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE FLORIDA SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

Montgomery Blair Sibley
1629 K Street, Suite 300
Washington, D.C. 20006
(202) 478-0371

Counsel for Petitioner

QUESTIONS PRESENTED FOR REVIEW

The Florida Supreme Court has ruled that it does not have jurisdiction to review claims that its "arm"– the Florida Bar – is violating Petitioner's right to petition the government for redress of grievances as that right is reserved only to members of the Florida Bar.

Accordingly, presented for review are three questions:

WHETHER, the Florida Supreme Court violated Petitioner's right to an impartial tribunal by determining a matter in which it's official "arm" was the Respondent?

WHETHER, the actions of the Florida Bar in opposing Petitioner's attempt to amend the Florida Constitution violated Petitioner's First Amendment right to petition for redress of grievances?

WHETHER, by limiting access to the Florida Supreme Court to members of the Florida Bar, the Florida Supreme Court violated equal protection of the law guarantees?

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PETITION FOR WRIT OF CERTIORARI TO THE FLORIDA SUPREME COURT

Petitioner, Florida J.A.I.L. 4 Judges, Florida Division of Elections Committee #35025 ("Florida J.A.I.L. 4 Judges"), prays that a writ of certiorari issue to review (i) the refusal of the Justices of the Florida Supreme Court to *disqualify* themselves prior to determining Petitioner's "*Petition to Enjoin Respondent, The Florida Bar, From Political Activities Related to the Article XI, §3 Initiative of Florida J.A.I.L. 4 Judges to amend Florida's Constitution*" and (ii) *denial* of Petitioner's Petition for lack of jurisdiction.

Review is mandated as the Florida Supreme Court (i) has so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's supervisory power, (ii) refused to decide an important question of federal law that has not been, but should be, settled by this Court, and (iii) has decided an important federal question in a way that conflicts with relevant decisions of this Court.

OPINIONS BELOW

The May 18, 2007, Order of the Florida Supreme Court dismissing the Petition is reprinted in the appendix hereto, *Appendix-2*. The May 18, 2007, Order denying the Motion to Disqualify all the Sitting Justices of the Florida Supreme Court is reprinted in the appendix hereto, *Appendix-3*. The September 7, 2007, Order by the Circuit Court denying rehearing is reprinted in the appendix hereto, *Appendix-4*.

JURISDICTION

The jurisdiction of this Court is invoked under Article III and the Ninth Amendment to the United States Constitution and 28 U.S.C. §1257.

CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES, ORDINANCES AND REGULATIONS INVOLVED

Federal Constitution, Article VI, Clause 2

"This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."

Federal Constitution, First Amendment:

"Congress shall make no law . . . prohibiting . . . the people . . . to petition the government for a redress of grievances."

Federal Constitution Ninth Amendment:

"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

Federal Constitution Fourteenth Amendment, §1:

"All persons born or naturalized in the United

States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Florida Constitution, Article I, §1:

"All political power is inherent in the people. The enunciation herein of certain rights shall not be construed to deny or impair others retained by the people."

Florida Constitution, Article I, § 5:

"The people shall have the right peaceably to assemble, to instruct their representatives, and to petition for redress of grievances."

Florida Constitution, Article V, §15:

"The supreme court shall have exclusive jurisdiction to regulate the admission of persons to the practice of law and the discipline of persons admitted."

Florida Constitution, Article XI, §3:

"The power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that, any

such revision or amendment, except for those limiting the power of government to raise revenue, shall embrace but one subject and matter directly connected therewith. It may be invoked by filing with the custodian of state records a petition containing a copy of the proposed revision or amendment, signed by a number of electors in each of one half of the congressional districts of the state, and of the state as a whole, equal to eight percent of the votes cast in each of such districts respectively and in the state as a whole in the last preceding election in which presidential electors were chosen."

STATEMENT OF THE CASE

I. FLORIDA J.A.I.L. 4 JUDGES

Florida J.A.I.L. 4 Judges is a Political Action Committee recognized by the Florida Department of State, Division of Elections and at all times relevant was "active" as Committee #35025.

Florida J.A.I.L. 4 Judges is actively seeking to amend Article V of the Florida Constitution with certain provisions known as "The Judicial Accountability Law"(J.A.I.L.).

The J.A.I.L. proposal would create special grand juries to investigate complaints against judges. These grand juries would have the power to discipline judges by levying fines, removing them from the bench and, where appropriate, subjecting them to criminal proceedings before special trial juries. Under present practice, the judiciary is entirely *de-facto* self-regulated and this has led in many instances to intolerable abuses of judicial discretion without recourse for those harmed. These instances have involved conflict of interest, denial of due process, withholding of evidence, and other violations of the constitutional rights of individuals, including arbitrary and unjustified fines, sanctions, seizure of property, loss of parental rights and incarceration.

United under the banner of Florida J.A.I.L. 4 Judges is a broad coalition of citizens from all backgrounds, professions, and political persuasions who are dedicated to the mission of reforming the Florida

judiciary.

II. THE FLORIDA BAR

The Florida Bar is an integrated bar. The Supreme Court of Florida established the Florida Bar as "an official arm of the Court." *Rules Regulating the Florida Bar*, 494 So.2d 977, 979 (Fla.1986).

The Florida Bar, through its members, officers and employees have engaged in direct and indirect political activities and controls editorial content in its two publications, "The Florida Bar News" and "The Florida Bar Journal", which are regularly distributed to all 80,000± members of the Florida Bar.

Noteworthy is that The Florida Bar Journal has reported on the activity of the Florida Bar's opposition to Petitioner, Florida J.A.I.L. 4 Judges.

On July 15, 2006, the Florida Bar News reported: "A constitutional amendment petition drive by Florida J.A.I.L. 4 Judges 'claims to be able to sanction corrupt judges with civil lawsuits and even jail. It claims that J.A.I.L. (Judicial Accountability Initiative Law) is totally in the hands of the people and is accountable to no government body," [Former Florida Supreme Court Justice Major] Harding said. "And, my friends, this is an effort to undermine the very foundation of our country and places at risk freedoms and liberties we have been so blessed to have."

In the same July 15, 2006, edition of the Florida Bar News, it was reported that

> The Bar's Judicial Independence Committee is looking locally and internationally at possible threats to the ability of judges and lawyers to do their jobs. . . . The viability of the group's Florida campaign remains uncertain. Dana Watson, a legislative aide with the Bar who serves as staff for the committee, said the group began its state petition drive four years ago, but has collected only 16 signatures. About 611,000 verified signatures are necessary to get the amendment on the ballot. . . . Diner noted the Web site lists county directors, although most counties, including some of the largest in the state, apparently do not yet have directors. The committee did not vote to take any action on the group, but Diner said, "Let's keep our eyes open on this and be as informed as we can be".

Most recently, in the January 15, 2007, edition of the Florida Bar News, the Florida Bar had reported under a headline that read: "Despite SD loss, J.A.I.L.4Judges targets Florida – Attorneys urged to be prepared for the fight":

> If backers of an amendment known as J.A.I.L.4Judges succeed in getting their constitutional amendment on the Florida ballot, the state's lawyers should be ready to lead a campaign to defeat it. . . .Tom Barnett, executive director of the

> State Bar of South Dakota, gave that advice to the Bar Board of Governors at its December meeting. Barnett led the campaign last year that resulted in the defeat of a J.A.I.L.4Judges initiative in South Dakota that wound up failing by an 89-to-11 percent margin. . . .He advised the Bar to begin preparing early for the potential campaign, and outlined how the anti-amendment campaign was waged in South Dakota. . . ."Start building coalitions today," he said. "Who uses the court system? Business. Who has the money to do appeals? Business. Tell them this will hurt the court system."

As a result, on February 21, 2007, Florida J.A.I.L. 4 Judges filed a petition ("Petition") with the Florida Supreme Court seeking an order from that Court:

(i) enjoining the Florida Bar from involving itself in the political activities related to the Florida J.A.I.L. 4 Judges, Florida Constitution Article XI, § 3 initiative to amend Article V of the Florida Constitution as detailed *supra*;

(ii) directing the Florida Bar to give equal space in its publications to "re-level" the playing field skewed by the Florida Bar's present reporting on Florida J.A.I.L. 4 Judges; and

(iii) requiring the Florida Bar to register as a political action committee with the Division of

Elections.

Also on February, 21, 2007, Petitioner filed a "Motion and Affidavit for Disqualification of All the Sitting Justices of the Florida Supreme Court" alleging that they were interested parties given that the Florida Bar was their official "arm".

On May 18, 2007, the Florida Supreme Court entered its order stating in pertinent part:

> The "Petition to Enjoin The Florida Bar From Political Activities Related to the Article XI, §3 Initiative of Florida J.A.I.L. 4 Judges" is dismissed for lack of jurisdiction. *See Fla. Bar re Schwarz*, 552 So. 2d 1094, 1097 (Fla. 1989) (stating that "[a]ny member of The Florida Bar in good standing may question the propriety of any legislative position taken by the Board of Governors by filing a timely petition with this Court"); *see also Alper v. Fla. Bar*, 771 So. 2d 523 (Fla. 2000); *Fla. Bar re Frankel*, 581 So. 2d 1294, 1295 n.1 (Fla. 1991).

Appendix-1. On the same day, the Florida Supreme Court denied without opinion the motion of Florida J.A.I.L. 4 Judges to disqualify each of its Justices. *Appendix-2.*. On May 31, 2007, Petitioner timely filed a motion for rehearing which was denied without opinion on September 7, 2007. *Appendix-3.*

REASONS FOR GRANTING THE WRIT

There are three compelling reasons for granting the writ to review the decision of the Florida Supreme Court.

First, the Florida Supreme Court has decided the matter below when they are clearly an interested party thereby violating Petitioner's right to an impartial tribunal. Only this Court can – and therefore it must – address this breach of Petitioner's fundamental right to an impartial tribunal.

Second, the Florida Supreme Court – through its official "arm" the Florida Bar – has violated Petitioner's First Amendment right to petition by actively opposing and belittling Petitioner.

Third, by according only to members of the Florida Bar the right to petition regarding the Florida Bar's activities, the Florida Supreme Court has violated the equal protection clause mandating this Court's review.

I. THE FLORIDA SUPREME COURT WAS NOT AN "IMPARTIAL TRIBUNAL"

This Court has recognized that under the Fifth Amendment there is an "absolute right" to an impartial tribunal. "The Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases. This requirement of neutrality in adjudicative proceedings safeguards the two central concerns of procedural due process, the prevention of unjustified or mistaken deprivations and the promotion

of participation and dialogue by affected individuals in the decision making process." *Marshall v. Jerrico*, 446 U.S. 238, 242 (1980). As such, the Fifth Amendment acts as a limitation upon the exercise of judicial power – to wit, justices sitting as adjudicators in cases in which they are *de facto* and *de jure* parties as the Florida Supreme Court here did.

Likewise, the Ninth Amendment to the United States Constitution states, "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

The extent of those rights was detailed in *Griswold v. Connecticut*, 381 U.S. 479, 484 (1965) in Justice Goldberg's concurrence:

> While the Ninth Amendment—and indeed the entire Bill of Rights—originally concerned restrictions upon federal power, the subsequently enacted Fourteenth Amendment prohibits the States as well from abridging fundamental personal liberties. And, the Ninth Amendment, in indicating that not all such liberties are specifically mentioned in the first eight amendments, is surely relevant in showing the existence of other fundamental personal rights, now protected from state, as well as federal, infringement. In sum, the Ninth Amendment simply lends strong support to the view that the 'liberty' protected by

> the Fifth And Fourteenth Amendments from infringement by the Federal Government or the States is not restricted to rights specifically mentioned in the first eight amendments.

Similarly, in *Palko v. Connecticut*, 302 U.S. 319, 325, 326 (1937), it was said that this category of fundamental rights includes those fundamental liberties that are "implicit in the concept of ordered liberty," such that "neither liberty nor justice would exist if [they] were sacrificed." A different description of fundamental rights appeared in *Moore v. East Cleveland*, 431 U.S. 494, 503,(1977) where they are characterized as those liberties that are "deeply rooted in this Nation's history and tradition."

Thus, among those rights "retained by the people" is the doctrine of *nemo judex in parte sua* made applicable to Florida Supreme Court Justices under the Ninth and Fourteenth Amendments.

As expressly recognized in *In re Murchison*, 349 U.S. 133, 136 (1955), "But our system of law has always endeavored to prevent even the probability of unfairness. To this end no man can be a judge in his own case and no man is permitted to try cases **where he has an interest in the outcome**." (Emphasis added.)

This right however clearly pre-dates the Constitution and was recognized – and thus preserved – by the Ninth Amendment as a fundamental right. Indeed, *nemo judex in parte sua* is more than a

Constitutional right: it is a fundamental right. "Unquestionably it is a fundamental principle that no man shall be judge in his own case." *Duncan v. McCall* 139 U.S. 449, 454 (1891). *See also*: Publius Syrus (42 B.C.), *Moral Sayings* 51, (D. Lyman translation, 1856) ("No one should be judge in his own cause."); Blaise Pascal (1623-1662), *Thoughts, Letters and Opuscules* 182 (O. Wight translation 1859) ("It is not permitted to the most equitable of men to be a judge in his own cause."); 1 W. Blackstone (1765), *Commentaries* 91 ("[I]t is unreasonable that any man should determine his own quarrel.")

As such, being indelibly imbedded in the common law, *nemo judex in parte sua* may not be disparaged by state judicial actors without doing violence to the protections reserved by the Ninth Amendment to the people. Thus it "guarantees to citizens of the United States the absolute right to be free" from state judges who would judge their own case.

Therefore, *nemo judex in parte sua* is a right preserved under the Ninth Amendment which was violated by the Florida Supreme Court Justices when they adjudicated Petitioner's petition. In so much as the official "arm" of the Florida Supreme Court has an "interest in the outcome" of Florida J.A.I.L. 4 Judges' drive to enact the Judicial Accountability Law, the Florida Supreme Court has an interest, thereby mandating its disqualification.

Simply stated, no one is above the law. As more eloquently stated:

> Under our system of government, no officer is placed above the restraining authority of the law, which is truly said to be universal in its behests, all paying it homage, the least as feeling its care, and the greatest as not being exempt from its power.

State of Ohio ex rel. v. Chase, Governor, 5 Ohio State, 529. Accordingly, this Court must accept *certiorari* to protect and preserve the fundamental right to an impartial tribunal.

Consequently, this Court must accept this Petition to review the derogation of this fundamental and constitutional right to an impartial tribunal by the Florida Supreme Court's adjudication of Florida J.A.I.L. 4 Judges Petition.

II. THE FLORIDA SUPREME COURT ACTS CONTRARY TO THE FEDERAL CONSTITUTION BY TRESPASSING ON THE RIGHT TO PETITION

Plainly, the Florida Supreme Court cannot act in violation of the Federal Constitution. Article VI, clause 2. Here, through the action of the delegation to it by Florida Constitution in Article V, §15 by the People of Florida to "regulate the admission of persons to the practice of law and the discipline of persons admitted", the Florida Supreme Court has created an entity – Respondent The Florida Bar – which is shredding the right to petition guaranteed under the First Amendment.

Clearly, to the Florida Supreme Court certain powers were ceded and that any action by them *outside* those ceded powers is *void ab initio.* "An unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed." *Norton v. Shelby County*, 118 U.S. 425, 442 (1886).

Hence, the limited power ceded to the Florida Supreme Court from the People permits that Court to only regulate (i) admission and (ii) discipline of persons admitted to practice law.

However, from this limited grant of power, this Court has usurped the additional power to create – as its "arm"[1] – the Florida Bar whose purpose has been greatly expanded beyond the limited grant of regulating attorney admission and discipline to: "inculcate in its members the principles of duty and service to the public, to improve the administration of justice, and to advance the science of jurisprudence." Moreover, once extra-constitutionally expanded, the Florida Supreme Court then mandates that every attorney admitted to practice must be a member. Rules Regulating the Florida Bar, Rule 1-3.1.

Thus, The Florida Bar has become an engine of the Florida Supreme Court's vested interests and, given its unlimited power, a vehicle to punish directly and

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[1] "The Supreme Court of Florida by these rules establishes the authority and responsibilities of The Florida Bar, an official arm of the court." Introduction, Rules Regulating the Florida Bar

indirectly any who oppose it.

As Mr. Justice Bradley said in *Boyd v. United States*, 116 U.S. 616 (1886):

> [I]llegitimate and unconstitutional practices get their first footing in that way, namely, by silent approaches and slight deviations from legal modes of procedure. . . It is the duty of courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroachments thereon. Their motto should be *obsta principiis*.

Similarly, in *Olmstead v. United States*, 277 U.S. 438, 479 (1928) Justice Brandeis stated: "Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding."

Granted power to regulate attorneys, the Florida Supreme Court through its "arm" has by "by silent approach and slight deviations" from the limited Article V, §15 grant of power for allegedly "beneficent" purposes, created a "danger to liberty" in the monolithic Florida Bar.

Against this backdrop the actions of Respondent The Florida Bar in regards to the pending Article IX, §3

initiative of Petitioner Florida J.A.I.L. 4 Judges to amend Florida's Constitution is plainly extra-constitutional and thus must be reviewed by this Court as an unconstitutional encroachment upon the right to petition secured by the First Amendment.

First, notice must be taken that apparently a paid staff person of the Florida Bar, Dana Watson, is spending her time – and thus the money of this Court's "arm" – investigating and working to oppose the Florida J.A.I.L. 4 Judges' initiative.

Second, the Florida Bar News has already begun trumpeting The Florida Bar's *ex cathedra* determination to oppose the Florida J.A.I.L. 4 Judges' initiative as the January 15, 2007, headline clearly details.[2] What "fight" are the Florida attorneys to be prepared for?

In sum, the People never ceded to the Florida Supreme Court the power to create an "arm" whose purpose has been expanded from simple regulation of the admission and discipline of attorneys to an organization which undertakes to oppose the exercise of the fundamental right to petition for redress of grievances as particularly authorized in Florida J.A.I.L. 4 Judges's constitutional initiative.

Under the Federal Constitution, First Amendment, "Congress shall make no law . . . prohibiting . . . the people . . . to petition the government for a redress of

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2 "*Despite SD loss, J.A.I.L.4Judges targets Florida – Attorneys urged to be prepared for the fight*"

grievances." Thanks to the Acts of Reconstruction, 39 Cong. Ch. 153, §5, the First Amendment is now binding on Florida. Accord: *Nebraska Press Assn. v. Stuart*, 427 U.S. 539 (1976)(It is well settled that the Fourteenth Amendment makes this provision applicable to the abridgment of the First Amendment by a state, including a state's judges.)

Against this right to petition, certain pole-stars are well known. "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein." *West Virginia State Bd. of Ed. v. Barnette*, 319 U.S. 624, 642 (1943).

As such, the government's attempts to prescribe orthodoxy have been restricted in three areas. First, the government may not abridge "equality of status in the field of ideas" by granting the use of public forums to those whose views it finds acceptable while denying their use to those with controversial views. *Police Department of Chicago v. Mosley*, 408 U.S. 92, 96 (1972). Here, through the mediums of its publications and its iron-grip on committee appointments, the *junta* of the Florida Bar has *de facto* reserved the "field of ideas" to itself, invoked *ad hominem* arguments against its adversaries[3], and banned any discussion contrary to

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[3] "This is an effort to undermine the very foundation of our country and places at risk freedoms and liberties we have been so blessed to have."

its "orthodox" views.[4]

Second, the government may not monopolize the "marketplace of ideas" thus drowning out private sources of speech. *Red Lion Broadcasting Co. v. F.C.C.*, 395 U.S. 367, 390 (1969)("It is the purpose of the First Amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market, whether it be by the Government itself or a private licensee.")

Here, just as there was a "scarcity of radio frequencies" in *Red Lion*, there is a analogous "scarcity" of frequency of communications to lawyers and the public which is being monopolized by the monolithic Florida Bar. This fact is confirmed by the common sense notice this Court must take of the exorbitant cost to access the "marketplace of ideas" and the prestige, power and purse[5] that the Florida Bar brings to that "captured" and "controlled" marketplace – Florida's admitted lawyers; by far the largest representative

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[4] Moreover, the Florida Bar has more than just banned views, it has actively retaliating against any who would challenge its hegemony: *Cf.: The Florida Bar Re: Authority of a Voluntary Section to Engage in Legislative Action*, No. 79,321, Final Order (Fla. May 1, 1992): This case ensued after the Board of Governors of The Florida Bar prohibited the Public Interest Law Section of The Florida Bar from advocating the repeal of Florida's prohibition against adoptions by homosexuals. The board's action was premised on a belief that the issue would be divisive within the bar's membership at large.

[5] "The Florida Bar's 2003-2004 operating budget is $28.8 million. Membership fees account for 66 percent, or $19 million, of that amount." *Florida Bar Journal*, September 1, 2003.

group in the legislature.

Third, the government may not "compel persons to support candidates, parties, ideologies or causes that they are against." *Lathrop v. Donohue*, 367 U.S. 820, 873 (1961) (Black, J., dissenting).

Patently, the Florida Supreme Court has articulated a theory which it surmises allows the Florida Bar to establish, maintain and supervise "a program for providing information and advice to the courts *and all other branches of government* concerning current law and proposed or contemplated changes in the law." Rules Regulating Fla. Bar 2–3.2(d)(4)(Emphasis added). That articulation starts with *In re Florida Bar Board of Governors' Action*, 217 So.2d 323 (Fla. 1969)("it is not only the right but the duty of the Bar as a professional organization to make such evaluation and advise the public of its conclusions") through *Alper v. FL Bar* ,771 So.2d 523 (Fla. 2000)("because we hold that the Bar's activities, as alleged in the petition before us, are clearly within the parameters previously approved by this Court, we hereby deny the petition on the basis that it is facially insufficient for the granting of relief") and includes many other cases.

Notably in each of these cases – and the federal cases related thereto – the sole analysis undertaken was whether the challenged Florida Bar activity violated the right to free speech or to association; not to "petition". *Cf. The Florida Bar re Frankel* at 1297; *Alper* at 524.

Here, Petitioner raises a *different* claim heretofore not addressed or adjudicated: to wit, whether the political activities of the Florida Bar violate the right to petition upon the grounds discussed *supra*. As such, as this Court is obligated to "say what the law is" and thus it must accept this Petition and declare its *ratio decidendi* on the scope of the permissible infringement by a state government entity upon the right to petition for redress of grievances.

Indeed, the "right to petition" is one of the most underdeveloped bodies of federal constitutional law. This Court has made only generalized statements concerning this right, but, unlike other fundamental rights, has not ventured into an analysis of when such right is being abridged as Petitioner alleges here.

As such, Petitioner has now pried open Pandora's box and this Court must re-examine the scope of permissible activities of the Florida Bar in light of their affect upon the fundamental and federal right to petition.

III. THE FLORIDA SUPREME COURT ACTS CONTRARY TO THE FEDERAL CONSTITUTION BY TRESPASSING ON THE RIGHT TO EQUAL PROTECTION OF THE LAWS

The Florida Supreme Court recognizes it has jurisdiction over Petitioner's claims – but only if those claims are raised by a member of the Florida Bar. *See Fla. Bar re Schwarz*, 552 So. 2d 1094, 1097 (Fla. 1989) (stating that "[a]ny member of The Florida Bar in good standing may question the propriety of any legislative

position taken by the Board of Governors by filing a timely petition with this Court"). *Appendix-2.*

Hence, those outside of the privileged few to whom the Florida Supreme Court grants entry to the Florida Bar, are without a voice to challenge the actions of the Florida Bar.

Such a proposition violates the Fourteenth Amendment's equal protection guarantees. *Accord: New York City Transit Authority v. Beazer*, 440 U.S. 568, 587 (1979)("Equal Protection] announces a fundamental principle: the State must govern impartially. General rules that apply evenhandedly to all persons within the jurisdiction unquestionably comply with this principle."

Here, the Florida Supreme Court is not "evenhandedly" dealing with all persons – only allowing the members of the Florida Bar the privilege of challenging the Florida Bar's public actions.

Thus, this Court must accept review in order to address the significant equal protection issue raised herein.

CONCLUSION

Accordingly, Petitioner prays that a writ of *certiorari* issue to the Florida Supreme Court in this matter.

Respectfully submitted,

Montgomery Blair Sibley
Counsel for Petitioner

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OPINIONS BELOW

The May 18, 2007, Order of the Florida Supreme Court dismissing the Petition *Appendix-2*

The May 18, 2007, Order denying the Motion to Disqualify all the Sitting Justices of the Florida Supreme Court *Appendix-3*

The September 7, 2007, Order by the Circuit Court denying rehearing. *Appendix-4*

SUPREME COURT OF FLORIDA
FRIDAY, May 18, 2007
CASE NO.: SC07-400

Florida J.A.I.L. 4 Judges, Florida Division of Elections Committee #35025	vs.	The Florida Bar
Petitioner		Respondent

The "Petition to Enjoin The Florida Bar From Political Activities Related to the Article XI, §3 Initiative of Florida J.A.I.L. 4 Judges" is dismissed for lack of jurisdiction. *See Fla. Bar re Schwarz*, 552 So. 2d 1094, 1097 (Fla. 1989) (stating that "[a]ny member of The Florida Bar in good standing may question the propriety of any legislative position taken by the Board of Governors by filing a timely petition with this Court"); *see also Alper v. Fla. Bar*, 771 So. 2d 523 (Fla. 2000); *Fla. Bar re Frankel*, 581 So. 2d 1294, 1295 n.1 (Fla. 1991).

LEWIS, C.J. and WELLS, ANSTEAD, PARIENTE, QUINCE, CANTERO and BELL, JJ., concur.

ANSTEAD, J., would request a response.

SUPREME COURT OF FLORIDA
FRIDAY, May 18, 2007
CASE NO.: SC07-400

Florida J.A.I.L. 4 Judges, Florida Division of Elections Committee #35025	vs.	The Florida Bar
Petitioner		Respondent

Petitioner's "Motion to Disqualify all the Sitting Justices of the Florida Supreme Court" is hereby denied.

LEWIS, C.J., denies.
WELLS, J., denies.
ANSTEAD, J., denies.
PARIENTE, J., denies.
QUINCE, J., denies.
CANTERO, J., denies.
BELL, J., denies.

SUPREME COURT OF FLORIDA
FRIDAY, September 7, 2007
CASE NO.: SC07-400

Florida J.A.I.L. 4 Judges, Florida Division of Elections Committee #35025	vs.	The Florida Bar
Petitioner		Respondent

Petitioner's Motion for Rehearing is hereby denied.

LEWIS, C.J. and WELLS, ANSTEAD, PARIENTE, QUINCE, CANTERO and BELL, JJ., concur.